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#### REMARKS

This amendment is submitted in reply to the outstanding Office Action dated September 11, 2006. Claims 1-4, 7-11, 13, 15-19, 21-26 and 28-31 currently stand rejected. Claims 1, 15, 18 and 24 have been amended to further patentably distinguish the claimed invention from the cited references. Applicant has added new claims 32-35 to more particularly define aspects of the present invention. Support for such new claims can be found at least at page 9, lines 23-31 of the specification as filed. No new matter has been added by the amendment. Claim 13 has been canceled, without prejudice.

In light of the amendment and the remarks presented below, Applicant respectfully requests reconsideration and allowance of all now-pending claims of the present application.

#### Claim Rejections - 35 USC §103

##### Claims 1, 2, 7-10, 15-19, 21-23 and 28-30

Claims 1, 2, 7-10, 15-19, 21-23 and 28-30 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Gupta et al. (U.S. Patent No. 6,484,156, hereinafter "Gupta") in view of Baber et al. (U.S. Patent No. 6,658,485, hereinafter "Baber").

Applicant has amended independent claim 1, to recite, *inter alia*, modifying the play list based on the determined priority including, based on the determined priority, terminating streaming of currently streaming content and initiating streaming of the remote network node content. Such feature had previously been included in dependent claim 13 and is neither taught nor suggested by Gupta and/or Baber either alone or in combination. Applicant also notes that neither Gupta nor Baber was cited as teaching such feature in the rejection of claim 13. Furthermore, the Office Action admits that Gupta fails to teach or suggest determining a priority for items of the playlist and, although Baber is asserted to disclose priority-based scheduling, there is no teaching or suggestion in Baber that streaming content may be terminated and remote network node content may be initiated based on the priority, as recited in the claimed invention. Thus, both Gupta and Baber fail to teach or suggest modifying the play list based on the determined priority including, based on the determined priority, terminating streaming of

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currently streaming content and initiating streaming of the remote network node content as recited in independent claim 1.

Since neither Gupta nor Baber individually teach or suggest modifying the play list based on the determined priority including, based on the determined priority, terminating streaming of currently streaming content and initiating streaming of the remote network node content, the combination of the references likewise fails to teach or suggest this feature of independent claim 1. Thus, the cited references, taken either individually or in combination, do not render independent claim 1 obvious. Independent claims 15 and 18 contain similar recitations to those of independent claim 1 with respect to terminating currently streaming content and initiating streamlining of other content based on the determined priority of the other content. Accordingly, claims 15 and 18 are patentable for at least those reasons given above for independent claim 1. Claims 2, 7-10, 16, 17, 19, 21-23 and 28-30 depend either directly or indirectly from corresponding ones of independent claims 1, 15 and 18 and thus include all the recitations of their corresponding independent claims. Therefore, dependent claims 2, 7-10, 16, 17, 19, 21-23 and 28-30 are patentable for at least those reasons given above for independent claims 1, 15 and 18.

Accordingly, it is respectfully submitted that the rejections of claims 1, 2, 7-10, 15-19, 21-23 and 28-30 under 35 U.S.C. §103(a) are overcome.

#### Claims 3 and 4

Claims 3 and 4 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Gupta and Baber in view of Bowman-Amuah (U.S. Patent No. 6,606,660).

As stated above, Gupta and Baber fail, individually and in combination, to teach or suggest modifying the play list based on the determined priority including, based on the determined priority, terminating streaming of currently streaming content and initiating streaming of the remote network node content as recited in independent claim 1.

Bowman-Amuah describes a stream-based communication system and method, where a message to be sent from a sending system in a shared format is first translated to a stream-based format and then sent to the receiving system. Bowman-Amuah also does not teach or suggest

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modifying the play list based on the determined priority including, based on the determined priority, terminating streaming of currently streaming content and initiating streaming of the remote network node content and is not cited as such.

Since neither Gupta, Baber nor Bowman-Amuah individually teach or suggest modifying the play list based on the determined priority including, based on the determined priority, terminating streaming of currently streaming content and initiating streaming of the remote network node content, the combination of the references likewise fails to teach or suggest this feature of independent claim 1. Thus, the cited references, taken either individually or in combination, do not render independent claim 1 obvious. Claims 3 and 4 depend indirectly from independent claim 1, and thus include all the recitations of independent claim 1. Thus, dependent claims 3 and 4 are patentable for at least the same reasons as given above for the independent claim 1.

Accordingly, it is respectfully submitted that the rejections of claims 3 and 4 are overcome.

#### Claims 11 and 13

Claims 11 and 13 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Gupta and Baber in view of Pezzillo et al. (U.S. Patent No. 6,434,621, hereinafter "Pezzillo"). As stated above, claim 13 has been canceled, without prejudice, and thus the rejection of claim 13 is now moot.

As stated above, Gupta and Baber fail, individually and in combination, to teach or suggest modifying the play list based on the determined priority including, based on the determined priority, terminating streaming of currently streaming content and initiating streaming of the remote network node content as recited in independent claim 1.

Pezzillo describes a system for enabling Internet or intranet broadcasting that offers audio and webcast information. Pezzillo also does not teach or suggest modifying the play list based on the determined priority including, based on the determined priority, terminating streaming of currently streaming content and initiating streaming of the remote network node content.

Applicant also respectfully notes that the Office Action currently states in connection with the

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rejection of independent claim 24 that "Pezzilo does not show determining whether a priority relative to items on the playlist is associated with the remote node content." Accordingly, it necessarily follows that Pezzilo cannot show based on the determined priority, terminating streaming of currently streaming content and initiating streaming of the remote network node content as recited in independent claim 1.

Applicant also notes that although the final Office Action cited Pezzillo as disclosing the above recited feature by virtue of Pezzillo's disclosure of live barriers at col. 3, lines 27-29, both the cited passage and indeed all of Pezzillo fails to meet the above recited feature.

In this regard, Pezzillo discloses utilizing live barriers to override a channel's program schedule to **force live events to broadcast at particular times** (col. 3, lines 27-29 and col. 5, lines 43-45). Thus, Pezzillo merely discloses an option to fix the time at which an event is broadcast and not an assignment of priority. Accordingly, no priority is determined in association with remote network node content and the playlist of Pezzillo cannot be modified based on a priority determination, but rather only based on fixed times. Thus, Pezzillo also fails to teach or suggest modifying the play list based on the determined priority including, based on the determined priority, terminating streaming of currently streaming content and initiating streaming of the remote network node content as claimed by independent claim 1.

Even if one were to assume for the sake of argument that Baber discloses determining whether a priority relative to items on the playlist is associated with the remote node content and that Pezzillo discloses terminating streaming of currently streaming content and initiating streaming of the remote network node content, the combination of the cited references still fails to teach or suggest terminating streaming of currently streaming content and initiating streaming of the remote network node content based on the determined priority as recited in the claimed invention. In fact, the forcing of live events to broadcast at fixed or particular times as disclosed in Pezzillo teaches away from the above recited feature of the claimed invention since the claimed invention is not concerned with time constraints, but simply concerned with the priority of an item relative to other items. Accordingly, in any case, there would be no motivation to combine the cited references to arrive at recited feature of the claimed invention given Pezzillo's teaching away from the use of priority to terminate streaming of currently streaming content and

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initiating streaming of other content based on a determined priority of the other content.

Since Gupta, Baber and Pezzillo each individually fail to teach or suggest modifying the play list based on the determined priority including, based on the determined priority, terminating streaming of currently streaming content and initiating streaming of the remote network node content, the combination of the references likewise fails to teach or suggest this feature of independent claim 1. Thus, the cited references, taken either individually or in combination, do not render independent claim 1 obvious. Claim 11 depends indirectly from independent claim 1, and thus includes all the recitations of independent claim 1. Thus, dependent claim 11 is patentable for at least the same reasons as given above for the independent claim 1.

Accordingly, it is respectfully submitted that the rejection of claim 11 is overcome.

#### Claims 24-26 and 31

Claims 24-26 and 31 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Pezzillo in view of Baber.

Independent claim 24 recites, *inter alia*, modifying the play list based on the determined priority including, based on the determined priority, terminating streaming of currently streaming content and initiating streaming of the remote network node content. As stated above, both Pezzillo and Baber fail to teach or suggest modifying the play list based on the determined priority including, based on the determined priority, terminating streaming of currently streaming content and initiating streaming of the remote network node content as recited in independent claim 24.

Since the cited references fail to teach or suggest modifying the play list based on the determined priority including, based on the determined priority, terminating streaming of currently streaming content and initiating streaming of the remote network node content, the combination of the references likewise fails to teach or suggest this feature of independent claim 24. Claims 25, 26 and 31 depend directly from independent claim 24, and thus include all the recitations of independent claim 24. Thus, dependent claims 25, 26 and 31 are patentable for at least the same reasons as given above for the independent claim 24.

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Accordingly, it is respectfully submitted that the rejections of claims 24-26 and 31 are overcome.

**Newly Added Claims**

Applicant has added new claims 32-35 to more particularly define aspects of the present invention. The new claims include no new matter and are fully supported by the specification and the drawings of the present application.

Accordingly, it is believed that the new claims are in condition for allowance.

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### CONCLUSION

In view of the amended claims and the remarks presented above, Applicant submits that the present set of claims is in condition for immediate allowance. As such, the issuance of a Notice of Allowance is respectfully requested. In order to expedite the examination of the present application, the Examiner is encouraged to contact Applicant's undersigned attorney in order to resolve any remaining issues.

In the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

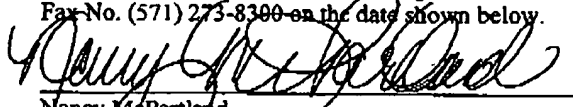


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